

Panhandling

ORDINANCE 2018-20

AN ORDINANCE OF THE CITY OF BUNNELL, FLORIDA AMENDING CHAPTER 46 OF THE BUNNELL CODE OF ORDINANCES TO CREATE A NEW SECTION 46-5 RELATED TO PANHANDLING, BEGGING, AND SOLICITATION; PROVIDING FOR FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED CONDUCT, PROXIMITY AND LOCATION RESTRICTIONS FOR SOLICITATION, PANHANDLING OR BEGGING, AND FOR AGGRESSIVE PANHANDLING OR BEGGING; PROVIDING FOR PENALTIES; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS, CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, Florida Statutes, include authority to enact regulations to protect the health, safety and welfare, and interests of the citizens of the City; and

WHEREAS, the City of Bunnell recognizes that solicitation, including but not limited to panhandling and begging are activities that are protected by the First Amendment to the United States Constitution; and

WHEREAS, the City of Bunnell can adopt and enforce regulations of behavior that implicate First Amendment activity when the regulations only affect the time, place, and manner of expression, are content-neutral, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels of communication; and

WHEREAS, the City of Bunnell has a significant interest in providing a safe and pleasant environment and in eliminating nuisance activity, *Smith v. City of Fort Lauderdale, Florida*, 177 F. 3d 954, 956 (11th Cir. 1999); and

WHEREAS, the City of Bunnell has experienced a significant increase in the number of complaints made to the Bunnell Police Department regarding panhandling and problematic panhandling behaviors; and,

WHEREAS, the City Commission finds that panhandlers and beggars, sometimes use profane language when requesting money from people; that panhandlers and beggars sometimes physically touch or threaten to touch the people they solicit for money; and that panhandlers and beggars sometimes block the path of people they solicit for money, or follow the people they solicit for money in an apparent effort to intimidate people into making a donation or as retribution for refusing to make a donation; and

WHEREAS, the City Commission finds that the foregoing activities constitute "aggressive panhandling or begging," and that the increase in aggressive panhandling or begging

throughout the City of Bunnell has become extremely disturbing and disruptive to residents, visitors, and businesses, and has contributed to an enhanced sense of fear, intimidation, and disorder resulting in the loss of access to and enjoyment of public places throughout the City; and

WHEREAS, the City Commission finds that regulation of panhandling and begging, based on the time, place, or manner of the solicitation including but not limited to panhandling or begging, is a content neutral and narrowly tailored way to promote public safety, and protect residents and visitors in areas where they may be or perceive themselves to be vulnerable and/or unable to leave; and

WHEREAS, the City Commission finds that regulation of panhandling and begging, in public places where people feel particularly vulnerable and/or unable to leave still provides ample alternative avenues of communication and are narrowly drawn to address the City's significant interests; and

WHEREAS, the City of Bunnell has a significant interest in preserving the safety of traffic flow and preventing traffic congestion wherever possible in the City of Bunnell; and

WHEREAS, the City of Bunnell has a significant interest in the safety of pedestrians and individuals traveling in vehicles throughout the City of Bunnell; and

WHEREAS, the City of Bunnell has a significant interest in promoting tourism, and aesthetics of the City of Bunnell; and

WHEREAS, the City of Bunnell has a significant interest in promoting the safety and convenience of its citizens on public streets. *Madsen v. Women's Health Center*, 512 U.S. 753, 768, 114 S. Ct. 2516, 129 L.Ed. 2d 593 (1994); and

WHEREAS, the City of Bunnell has a significant interest in ensuring the public safety and order and in promoting the free flow of traffic on public streets and sidewalks; and

WHEREAS, the City of Bunnell has a significant interest in the safety and convenience of citizens using public fora such as streets and sidewalks. *Heffron v. International Soc'y for Krishna Consciousness*, 452 U.S. 640, 650, 101 S. Ct. 2559, 69 L.Ed. 2d 298 (1981); and

WHEREAS, the City of Bunnell has a significant interest in recognizing the safety and convenience on public roads. *Cox v. New Hampshire*, 312 U.S. 569, 574, 61 S. Ct. 762, 85 L.Ed. 1049 (1941); and

WHEREAS, the City of Bunnell has a significant interest in controlling traffic and pedestrian congestion. *Ayres v. City of Chicago*, 125 F. 3d 1010, 1015 (7th Cir. 1997); and

WHEREAS, the City of Bunnell has a significant interest in preventing crime, protecting the City's retail trade, maintaining property values, and generally protecting and preserving the quality of the City's neighborhoods, commercial districts and the quality of urban life. *Young v.*

American Mini Theaters, 427 U.S. 50, 96 S. Ct. 440, 49 L.Ed. 2d 310 (1976); and

WHEREAS, the City of Bunnell has a significant interest in appearance of the City and aesthetics. *Metromedia Inc. v. City of San Diego*, 453 U.S. 490, 101 S. Ct. 2882 (1981); and

WHEREAS, the City of Bunnell has a significant interest in maintaining safe ingress and egress into and out of commercial establishments in order to, *inter alia*, control pedestrian congestion, facilitate pedestrian safety and order, and provide for access for emergency vehicles and personnel both fire and police to promote public health, safety, and welfare; and

WHEREAS, the City of Bunnell has a compelling governmental interest in preserving and protecting the lives of its citizens which can be imperiled by, *inter alia*, traffic and pedestrian congestion which among other things can delay deployment of life saving fire and police vehicles and personnel; and

WHEREAS, the City Commission of the City of Bunnell takes notice of the nearly five hours of expert and other testimony from law enforcement experts, public health experts, and others, adduced on March 26, 2018, before the City Commission for the City of St. Augustine, a city geographically proximate to the City of Bunnell, concerning a proposed ordinance with regulations substantially similar to those set forth in this ordinance, and that City Commission of the City of Bunnell finds such testimony germane, relevant, credible, and persuasive with respect to the regulations set forth herein; and

WHEREAS, the City Commission of the City of Bunnell finds it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

WHEREAS, the City of Bunnell has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW THEREFORE BE IT ORDAINED BY THE COMMISSION OF THE CITY OF BUNNELL, FLAGLER COUNTY, FLORIDA THAT:

Section 1. Recitals.

The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance and adopted as legislative findings.

Section 2.

The Bunnell Code of Ordinances is hereby amended to create a new Sec. 46-5 related to Begging, Panhandling and Solicitation to be added to Chapter 46 and to read as follows:

Sec. 46-5. - Begging, Panhandling and Solicitation.

(a) Intent. The purpose and intent of this Section is to recognize the constitutional right of persons to solicit, including but not limited to beg and panhandle, in a peaceful and non-threatening manner; however, an increase in aggressive panhandling and begging throughout the City has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places but also to an enhanced sense of fear, intimidation, and disorder. Aggressive panhandling and begging usually includes approaching or following pedestrians, repetitive requests for donations of money despite refusals, the use of abusive or profane language, unwanted physical contact, and the intentional, or as incident to the aggressive panhandling and begging, blocking of pedestrian and vehicular traffic. Additionally, the presence of panhandlers and beggars, who request money from persons in specific public areas such as outdoor cafes, automated teller machines, entrances and exits from buildings, and while standing in line to enter an event or a building, is especially troublesome because persons cannot readily escape from the undesired conduct, which often carries with it an implicit threat to both persons and property as well as incidental to the panhandling and begging activities the imperiling of the health, safety and welfare of the citizens of and visitors to Bunnell by, among other things, blockage of ingress and egress from and into commercial businesses adjacent to public rights of way.

This Section is not intended to limit any persons from exercising their constitutional right to solicit, including but not limited to beg, panhandle or solicit funds, picket, protest, or engage in any other constitutionally protected activity, when conducted in a legal manner. The goal of this Section is instead to ensure the foregoing constitutional rights while through regulation acting to protect citizens from the fear and intimidation accompanying certain kinds of panhandling and begging that have become an unwelcome and overwhelming presence in the City by prohibiting aggressive panhandling and begging throughout the City and by regulating through time, place, and manner ordinance provisions regulating panhandling and begging in certain public places, based upon the foregoing significant important and substantial governmental interests set forth in the predicate clauses and an overriding compelling governmental interest to protect the health, safety and welfare of the citizens of Bunnell and visitors from the adverse secondary effects of solicitation, including panhandling and begging, in public areas. The restrictions contained in this Section are neither overbroad nor vague and are narrowly tailored to serve a significant governmental interest, and preserve ample alternative areas for the valid exercise of constitutional rights of solicitation which they do as set forth more particularly herein.

Further, even if such regulations were to be deemed to trigger strict scrutiny, the blockage of ingress and egress into and from commercial businesses and other public areas as well as the impedance of pedestrian walkways and other public rights of way implicates the compelling governmental interest of Bunnell in protecting the health, safety and welfare of its citizenry and visitors in preserving police and fire department access to such rights of way in order to save lives.

(b) Definitions. For purposes of this Section, the following words and phrases shall have the meanings ascribed to them as follows:

- (1) After dark means from one half hour after sunset until one-half hour before sunrise. The times of sunset and sunrise will be established by the times listed in any local publication of general distribution.
- (2) Aggressive panhandling or begging means:
- a. To approach or speak to a person and demand, request or beg for money or a donation of valuable property in such a manner as would cause a reasonable person to believe that the person is being threatened with imminent bodily injury or the commission of a criminal act upon the person approached or another person in the solicited person's company, or upon property in the person's immediate possession (for example, placing oneself within 2 feet of a solicited person and/or using abusive or profane language in a loud voice while demanding or requesting money); or
 - b. To maintain contact with a solicited person and continue demanding, requesting or begging for money or a donation of valuable property after the solicited person has made a negative response to an initial demand or request for money or a donation (for example, walking in front of, next to, or behind a solicited person while continuing to demand, request or beg for money from that person after that person has refused to donate or give money); or
 - c. To obstruct, block or impede, either individually or as part of a group of persons, the passage or free movement of a solicited person or a person in the company of a solicited person, including persons on foot, on bicycles, in wheelchairs or operating motor vehicles or persons attempting to enter or exit motor vehicles (for example, walking, standing, sitting, laying, or placing an object in such a manner as to block passage of another person or vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact); or
 - d. To touch or cause physical contact to a solicited person or a person in the company of a solicited person, or to touch any vehicle occupied by a solicited person or by a person in the company of the solicited person, without the person's express consent; or
 - e. To engage in conduct that would reasonably be construed as intended to intimidate, compel or force a solicited person to accede to demands.
- (3) Panhandle or beg means any demand or request made in person for an immediate donation of money or some other article of value from another person for the use of one's self or others, including but not limited for a charitable or sponsor purpose or that will benefit a charitable organization or sponsor. As used in this Section, the word "solicit" and its forms is included in this definition. A

solicitation is considered as having taken place regardless of whether the person making the solicitation received any contribution. Any purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, constitutes a donation as contemplated in this definition.

(c) Prohibited Conduct, Proximity and Location Restrictions.

- (1) Aggressive Panhandling or Begging on Public Property Prohibited. It shall be unlawful for any person to engage in aggressive panhandling or begging on any sidewalk, highway, street, roadway, right-of-way, parking lot, park, or other public or semi-public area or in any public building lobby, entranceway, plaza or common area, public forum or limited public forum within the city limits of the City of Bunnell.
- (2) Aggressive Panhandling or Begging on Private Property. It shall be unlawful for any person to engage in aggressive panhandling or begging on private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
- (3) Prohibited Locations for Solicitation, Panhandling, Begging. It shall be unlawful for any person to engage in solicitation, including but not limited to panhandling or begging, when either the person engaged in the solicitation, including but not limited to the panhandler or beggar or the person being panhandled, is located in, on or at the following locations within the City:
 - a. Within twenty (20) feet, in any direction, from any entrance or exit of commercial establishment;
 - b. Within twenty (20) feet, in any direction, of any bus stop or any public transportation facility;
 - c. Within twenty (20) feet, in any direction, of an automated teller machine or any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit or convenience account with a financial institution;
 - d. Within twenty (20) feet, in any direction, of any parking lot, parking garage, parking meter or parking pay station owned or operated by the City or any other governmental agency;
 - e. Within twenty (20) feet, in any direction, of any public restroom owned or operated by the City or any other governmental agency;

f. Within one hundred (100) feet, in any direction, of any daycare or school, including pre-kindergarten through grade 12.

(4) Additional Prohibited Conduct. It shall be unlawful for any person to engage in the following prohibited conduct:

a. Approach an operator or other occupant of a motor vehicle for the purpose of panhandling, soliciting or begging, or offering to perform a service in connection with such vehicle, or otherwise soliciting the sale of goods or services, if such panhandling, soliciting or begging is done in an aggressive manner;

b. Panhandle, solicit or beg at any lawfully permitted outdoor dining area or lawfully permitted outdoor merchandise area, provided such areas are in active use at the time;

c. Panhandle, solicit or beg at any transit stop or taxi stand or in a public transit vehicle;

d. Panhandle, solicit or beg while the person or persons being solicited is standing in line waiting to be admitted to a commercial establishment;

e. Panhandle, solicit or beg by touching the person or persons being solicited without that person's consent;

f. Panhandle, solicit or beg with the use of profane or abusive language during the solicitation or following an unsuccessful solicitation;

g. Panhandle, solicit or beg by or with the use of any gesture or act intended to cause a reasonable person to be fearful of the solicitor or feel compelled to accede to the solicitation;

h. Panhandle, solicit or beg while under the influence of alcohol or after having illegally used any controlled substance, as defined in the Chapter 893 of the Florida Criminal Statutes; or

i. Panhandle, solicit or beg after dark.

(d) Penalty. Any person found guilty of violating the provisions of this section shall be punishable as set forth in Sec. 2-77, et seq., of this Code.

Section 3.

Subsection (a) of Sec. 2-77(a) entitled "Schedule of Violations" shall be amended to include (25) to read as follows:

(25) Section 46-5. Begging, Panhandling and Solicitation.

Section 4.

Subsection (b) of Sec. 2-79 entitled "Disposition of civil penalties" is amended to include reference to Sec. 46-5 to read as follows:

Sec. 46-5 Begging, Panhandling and Solicitation.

First Offense: \$100.00

Second Offense: \$150.00

Third Offense: \$200.00

Fourth Offense: \$250.00

Section 5. Implementing Administrative Actions.

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules. All development orders shall be issued in a manner consistent with controlling law and rendered in appealable form with the City Clerk. Denials of development approvals shall be issued in accordance with controlling law to include, but not be limited to, Section 166.033, *Florida Statutes*.

Section 6. Codification.

The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Bunnell Code of Ordinances* and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 5, 6, 7, 8, and 9 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 7. Conflicts.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 8. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 9. Effective Date.

This Ordinance shall take effect immediately upon enactment.

First Reading: approved on this 22nd day of October 2018.

Second Reading: adopted on this 13th day of November 2018.

Daytona Beach

Sec. 66-1. - Panhandling, begging and solicitation.

- (a) *Intent.* The purpose and intent of this article is to recognize the constitutional right of persons to panhandle, including but not limited to solicit and beg, in a peaceful and non-threatening manner; however, an increase in aggressive panhandling and begging throughout the city has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places but also to an enhanced sense of fear, intimidation, and disorder as well as actual danger to the health, safety and welfare of citizens and tourists alike. Aggressive panhandling and begging usually includes approaching or following pedestrians, repetitive requests for donations of money despite refusals, the use of abusive or profane language, unwanted physical contact, and the intentional, or as incident to the aggressive panhandling and begging, blocking of pedestrian and vehicular traffic. Additionally, the presence of panhandlers and beggars, who request money from persons in specific public areas such as outdoor cafes, automated teller machines, entrances and exits from buildings, and while standing in line to enter an event or a building, is especially troublesome because persons cannot readily escape from the undesired conduct, which often carries with it an implicit threat to both persons and property as well as incidental to the panhandling and begging activities the imperiling of the health, safety and welfare of the citizens of and visitors to Daytona Beach by, among other things, blockage of ingress and egress from and into commercial businesses adjacent to public rights-of-way. Also, unless helped by regulation, some of the habits attributable to panhandlers, including but not limited to open urination and open defecation, pose a threat to the health, safety and welfare of citizens and tourists who visit the City of Daytona Beach.

This article is not intended to limit any persons from exercising their constitutional right to panhandle, including but not limited to beg, or solicit funds, or engage in any other constitutionally protected activity, when conducted in a legal manner. The goal of this article is instead to ensure the foregoing constitutional rights while through regulation acting to protect citizens from the fear and intimidation accompanying certain kinds of panhandling and begging that have become an unwelcome and overwhelming presence in the city by prohibiting aggressive panhandling and begging throughout the city and by regulating through time, place, and manner ordinance provisions regulating panhandling and begging in certain public places, based upon the foregoing significant, important and substantial governmental interests set forth in the predicate clauses and an overriding compelling governmental interest to protect the health, safety and welfare of the citizens of Daytona Beach and visitors from the adverse secondary effects of solicitation, including panhandling and begging, in public areas. The restrictions contained in this article are neither overbroad nor vague and are narrowly tailored to serve a compelling and substantial governmental interest, and preserve ample alternative areas for the valid exercise of constitutional rights of solicitation which they do as set forth more particularly herein.

If such regulations were to be deemed to trigger strict scrutiny, certain behaviors attributed to panhandlers including but not limited to open urination and open defecation and the blockage of ingress and egress into and from commercial businesses and other public areas as well as the impedance of pedestrian walkways and other public rights-of-way implicates the compelling governmental interest of Daytona Beach in protecting the health, safety and welfare of its citizenry and visitors in preserving police and fire department access to such rights-of-way in order to save lives.

- (b) *Definitions.* For purposes of this article, the following words and phrases shall have the meanings ascribed to them as follows:

After dark means from one-half hour after sunset until one-half hour before sunrise. The times of sunset and sunrise will be established by the times listed in any local publication of general distribution.

Aggressive panhandling means:

- a. To approach or speak to a person and demand, request or beg for money or a donation of valuable property in such a manner as would cause a reasonable person to believe that the person is being threatened with imminent bodily injury or the commission of a criminal act upon the person approached or another person in the solicited person's company, or upon property in the person's immediate possession (for example, placing oneself within two feet of a solicited

person and/or using abusive or profane language in a loud voice while demanding or requesting money); or

- b. To maintain contact with a solicited person and continue demanding, requesting or begging for money or a donation of valuable property after the solicited person has made a negative response to an initial demand or request for money or a donation (for example, walking in front of, next to, or behind a solicited person while continuing to demand, request or beg for money from that person after that person has refused to donate or give money); or
- c. To obstruct, block or impede, either individually or as part of a group of persons, the passage or free movement of a solicited person or a person in the company of a solicited person, including persons on foot, on bicycles, in wheelchairs or operating motor vehicles or persons attempting to enter or exit motor vehicles (for example, walking, standing, sitting, lying, or placing an object in such a manner as to block passage of another person or vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact); or
- d. To touch or cause physical contact to a solicited person or a person in the company of a solicited person, or to touch any vehicle occupied by a solicited person or by a person in the company of the solicited person, without the person's express consent; or
- e. To engage in conduct that would reasonably be construed as intended to intimidate, compel or force a solicited person to accede to demands.

Panhandle means to beg or make any demand or request made in person for an immediate donation of money or some other article of value from another person for the use of one's self or others, including but not limited to for a charitable or sponsor purpose or that will benefit a charitable organization or sponsor. As used in this article, the word "solicit" and its forms are included in this definition. Panhandling is considered as having taken place regardless of whether the person making the solicitation received any contribution. Any purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, constitutes a donation as contemplated in this definition. Begging is included in this definition of panhandling. Soliciting is including in this definition of panhandling.

Prohibited areas for panhandling including but not limited to soliciting and begging means the following locations throughout the city in which it is unlawful to engage in panhandling, including but not limited to solicitation or begging, when either the panhandler or beggar or the person being panhandled is located in, on or at the following locations:

- a. Within 20 feet, in any direction, from any entrance or exit of commercially zoned property;
 - b. Within 20 feet, in any direction, of any bus or trolley stop or any public transportation facility;
 - c. Within 20 feet, in any direction, of an automated teller machine or any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit or convenience account with a financial institution;
 - d. Within 20 feet, in any direction, of any parking lot, parking garage, parking meter or parking pay station owned or operated by the city;
 - e. Within 20 feet, in any direction, of any public restroom owned and operated by a governmental agency;
 - f. Within 100 feet, in any direction, of any daycare or school, including pre-kindergarten through grade 12;
 - g. Within 150 feet of any signalized intersection of: 1) arterial roads; 2) collector roads; and 3) arterial and collector roads, as such roads are defined by the Florida Department of Transportation;
 - h. Occurring on the boardwalk as visibly defined by the map at the end of this section.
- (c) *Prohibited conduct, proximity and location restrictions.*

- (1) It shall be unlawful for any person to engage in aggressive panhandling on any sidewalk, highway, street, roadway, right-of-way, parking lot, park, or other public or semi-public area or in any public building lobby, entranceway, plaza or common area, public forum or limited public forum within the city limits of the City of Daytona Beach.
- (2) It shall be unlawful for any person to engage in aggressive panhandling on private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
- (3) It shall be unlawful for any person to engage in panhandling when either the person engaged in panhandling or the panhandler or the person being panhandled, is located in, on or at the following locations:
 - a. Within 20 feet, in any direction, from any entrance or exit of commercially zoned property;
 - b. Within 20 feet, in any direction, of any bus or trolley stop or any public transportation facility;
 - c. Within 20 feet, in any direction, of an automated teller machine or any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit or convenience account with a financial institution;
 - d. Within 20 feet, in any direction, of any parking lot, parking garage, parking meter or parking pay station owned or operated by the city;
 - e. Within 20 feet, in any direction, of any public restroom owned and operated by a governmental agency;
 - f. Within 100 feet, in any direction, of any daycare or school, including pre-kindergarten through grade 12;
 - g. Within 150 feet of any signalized intersection of: 1) arterial roads; 2) collector roads; and 3) arterial and collector roads;
 - h. Occurring on the boardwalk as visibly defined by the map at the end of this section.
- (4) It shall be unlawful for any person to engage in the following prohibited conduct:
 - a. Approach an operator or other occupant of a motor vehicle for the purpose of panhandling, soliciting or begging, or offering to perform a service in connection with such vehicle, or otherwise soliciting the sale of goods or services, if such panhandling, soliciting or begging is done in an aggressive manner;
 - b. Panhandle or solicit or beg at any lawfully permitted outdoor dining area amphitheater, amphitheater seating area, playground or lawfully permitted outdoor merchandise area, provided such areas are in active use at the time;
 - c. Panhandle, solicit or beg at any transit stop or taxi stand or in a public transit vehicle;
 - d. Panhandle, solicit or beg while the person or persons being solicited is standing in line waiting to be admitted to a commercial establishment;
 - e. Panhandle, solicit or beg by touching the person or persons being solicited without that person's consent;
 - f. Panhandle, solicit or beg with the use of profane or abusive language during the solicitation or following an unsuccessful solicitation;
 - g. Panhandle, solicit or beg by or with the use of any gesture or act intended to cause a reasonable person to be fearful of the solicitor or feel compelled to accede to the solicitation;
 - h. Panhandle, solicit or beg while under the influence of alcohol or after having illegally used any controlled substance, as defined in chapter 893 of the Florida Criminal Statutes; or

- i. Panhandle, solicit or beg after dark.
- (d) *Penalty.* Any person found guilty of violating the provisions of this section shall be punished in the manner prescribed in section 1-14 of this Code.



(Ord. No. 19-27, § 2, 2-6-2019)

Sec. 18-8. - Begging, panhandling and solicitation.

- (a) *Intent.* The purpose and intent of this article is to recognize the constitutional right of persons to solicit, including but not limited to beg and panhandle, in a peaceful and non-threatening manner; however, an increase in aggressive panhandling and begging throughout the city has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places but also to an enhanced sense of fear, intimidation, and disorder. Aggressive panhandling and begging usually includes approaching or following pedestrians, repetitive requests for donations of money despite refusals, the use of abusive or profane language, unwanted physical contact, and the intentional, or as incident to the aggressive panhandling and begging, blocking of pedestrian and vehicular traffic. Additionally, the presence of panhandlers and beggars, who request money from persons in specific public areas such as outdoor cafes, automated teller machines, entrances and exits from buildings, and while standing in line to enter an event or a building, is especially troublesome because persons cannot readily escape from the undesired conduct, which often carries with it an implicit threat to both persons and property as well as incidental to the panhandling and begging activities the imperiling of the health, safety and welfare of the citizens of and visitors to St. Augustine by, among other things, blockage of ingress and egress from and into commercial businesses adjacent to public rights-of-way.

This article is not intended to limit any persons from exercising their constitutional right to solicit, including but not limited to beg, panhandle or solicit funds, picket, protest, or engage in any other constitutionally protected activity, when conducted in a legal manner. The goal of this article is instead to ensure the foregoing constitutional rights while through regulation acting to protect citizens from the fear and intimidation accompanying certain kinds of panhandling and begging that have become an unwelcome and overwhelming presence in the city by prohibiting aggressive panhandling and begging throughout the city and by regulating through time, place, and manner ordinance provisions regulating panhandling and begging in certain public places, based upon the foregoing significant important and substantial governmental interests set forth in the predicate clauses and an overriding compelling governmental interest to protect the health, safety and welfare of the citizens of St. Augustine and visitors from the adverse secondary effects of

solicitation, including panhandling and begging, in public areas. The restrictions contained in this article are neither overbroad nor vague and are narrowly tailored to serve a substantial governmental interest, and preserve ample alternative areas for the valid exercise of constitutional rights of solicitation which they do as set forth more particularly herein.

Further, even if such regulations were to be deemed to trigger strict scrutiny, the blockage of ingress and egress into and from commercial businesses and other public areas as well as the impedance of pedestrian walkways and other public rights-of-way implicates the compelling governmental interest of St. Augustine in protecting the health, safety and welfare of its citizenry and visitors in preserving police and fire department access to such rights-of-way in order to save lives.

(b) *Definitions.* For purposes of this article, the following words and phrases shall have the meanings ascribed to them as follows:

(1) *After dark* means from one-half hour after sunset until one-half hour before sunrise. The times of sunset and sunrise will be established by the times listed in any local publication of general distribution.

(2) *Aggressive panhandling or begging* means:

a. To approach or speak to a person and demand, request or beg for money or a donation of valuable property in such a manner as would cause a reasonable person to believe that the person is being threatened with imminent bodily injury or the commission of a criminal act upon the person approached or another person in the solicited person's company, or upon property in the person's immediate possession (for example, placing oneself within two feet of a solicited person and/or using abusive or profane language in a loud voice while demanding or requesting money); or

b. To maintain contact with a solicited person and continue demanding, requesting or begging for money or a donation of valuable property after the solicited person has made a negative response to an initial demand or request for money or a donation (for example, walking in front of, next to, or behind a solicited person while continuing to demand, request or beg for money from that person after that person has refused to donate or give money); or

- c. To obstruct, block or impede, either individually or as part of a group of persons, the passage or free movement of a solicited person or a person in the company of a solicited person, including persons on foot, on bicycles, in wheelchairs or operating motor vehicles or persons attempting to enter or exit motor vehicles (for example, walking, standing, sitting, laying, or placing an object in such a manner as to block passage of another person or vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact); or
 - d. To touch or cause physical contact to a solicited person or a person in the company of a solicited person, or to touch any vehicle occupied by a solicited person or by a person in the company of the solicited person, without the person's express consent; or
 - e. To engage in conduct that would reasonably be construed as intended to intimidate, compel or force a solicited person to accede to demands.
- (3) *Panhandle or beg* means any demand or request made in person for an immediate donation of money or some other article of value from another person for the use of one's self or others, including but not limited for a charitable or sponsor purpose or that will benefit a charitable organization or sponsor. As used in this article, the word "solicit" and its forms is included in this definition. A solicitation is considered as having taken place regardless of whether the person making the solicitation received any contribution. Any purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, constitutes a donation as contemplated in this definition.
- (4) *Prohibited areas for solicitation including but not limited to panhandling and begging* means the following locations throughout the city in which it is unlawful to engage in solicitation, including but not limited to panhandling or begging, when either the panhandler or beggar or the person being panhandled is located in, on or at the following locations:
- a. Within twenty (20) feet, in any direction, from any entrance or exit of commercially zoned property;
 - b. Within twenty (20) feet, in any direction, of any bus or trolley stop or any

public transportation facility;

- c. Within twenty (20) feet, in any direction, of an automated teller machine or any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit or convenience account with a financial institution;
- d. Within twenty (20) feet, in any direction, of any parking lot, parking garage, parking meter or parking pay station owned or operated by the city;
- e. Within twenty (20) feet, in any direction, of any public restroom owned and operated by a governmental agency;
- f. Within one hundred (100) feet, in any direction, of any daycare or school, including pre-kindergarten through grade 12.

(c) *Prohibited conduct, proximity and location restrictions.*

- (1) It shall be unlawful for any person to engage in aggressive panhandling or begging on any sidewalk, highway, street, roadway, right-of-way, parking lot, park, or other public or semi-public area or in any public building lobby, entranceway, plaza or common area, public forum or limited public forum within the city limits of the City of St. Augustine.
- (2) It shall be unlawful for any person to engage in aggressive panhandling or begging on private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
- (3) It shall be unlawful for any person to engage in solicitation, including but not limited to panhandling or begging, when either the person engaged in the solicitation, including but not limited to the panhandler or beggar or the person being panhandled, is located in, on or at the following locations:
 - a. Within twenty (20) feet, in any direction, from any entrance or exit of commercially zoned property;
 - b. Within twenty (20) feet, in any direction, of any bus or trolley stop or any public transportation facility;
 - c.

Within twenty (20) feet, in any direction, of an automated teller machine or any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit or convenience account with a financial institution;

- d. Within twenty (20) feet, in any direction, of any parking lot, parking garage, parking meter or parking pay station owned or operated by the city;
 - e. Within twenty (20) feet, in any direction, of any public restroom owned and operated by a governmental agency;
 - f. Within one hundred (100) feet, in any direction, of any daycare or school, including pre-kindergarten through grade 12.
- (4) It shall be unlawful for any person to engage in the following prohibited conduct:
- a. Approach an operator or other occupant of a motor vehicle for the purpose of panhandling, soliciting or begging, or offering to perform a service in connection with such vehicle, or otherwise soliciting the sale of goods or services, if such panhandling, soliciting or begging is done in an aggressive manner;
 - b. Panhandle, solicit or beg at any lawfully permitted outdoor dining area or lawfully permitted outdoor merchandise area, provided such areas are in active use at the time;
 - c. Panhandle, solicit or beg at any transit stop or taxi stand or in a public transit vehicle;
 - d. Panhandle, solicit or beg while the person or persons being solicited is standing in line waiting to be admitted to a commercial establishment;
 - e. Panhandle, solicit or beg by touching the person or persons being solicited without that person's consent;
 - f. Panhandle, solicit or beg with the use of profane or abusive language during the solicitation or following an unsuccessful solicitation;
 - g. Panhandle, solicit or beg by or with the use of any gesture or act intended to cause a reasonable person to be fearful of the solicitor or feel compelled to accede to the solicitation;
 - h.

Panhandle, solicit or beg while under the influence of alcohol or after having illegally used any controlled substance, as defined in Chapter 893 of the Florida Criminal Statutes; or

i. Panhandle, solicit or beg after dark.

(d) *Penalty.* Any person found guilty of violating the provisions of this section shall be punished in the manner prescribed in section 1-8 of this Code.

(Ord. No. 93-17, § 2, 5-24-93; Ord. No. 01-27, §§ 1, 2, 10-22-01; Ord. No. 06-40, § 1, 1-8-07; Ord. No. 10-30, § 1, 9-13-10; Ord. No. 10-35, § 1, 10-11-10; Ord. No. 18-06, §§ 1, 2, 3-26-18)

Cross reference— Solicitors and canvassers, § 17-231 et seq.; street entertainers, § 17-266 et seq.; prohibition on the sale of merchandise on streets, parks, etc., § 22-6; solicitation, canvassing for commercial purposes on public ways, § 22-7.